

01
02
03
04
05
06
07 UNITED STATES DISTRICT COURT
08 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

09 NORTHWEST ADMINISTRATORS, INC.,) CASE NO. C09-0197-MAT
10)
11 Plaintiff,)
12)
13 v.) ORDER GRANTING
14) PLAINTIFF'S MOTION FOR
15 FRED HILL MATERIALS, INC.,) SUMMARY JUDGMENT
16)
17 Defendant.)
18)
19)
20)
21)
22)

15 Plaintiff Northwest Administrators, Inc. moves the Court for summary judgment
16 against defendant Fred Hill Materials, Inc. (Dkts. 6 & 7.) This matter was brought pursuant
17 to the Employee Retirement Income Security Act, 29 U.S.C. § 1001, et seq. ("ERISA").
18 Defendant is bound by a collective bargaining agreement with Local 589 of the International
19 Brotherhood of Teamsters, which requires defendant to pay monthly contributions to the
20 Washington Teamsters Welfare Trust Fund (hereinafter "Trust") for eligible employees. (*See*
21 *Dkt. 8, Ex. A.*) Defendant also signed an Agreement and Declaration of Trust containing
22 terms as to damages owed as a result of any delinquent contributions, as well as attorneys' fees

01 and costs. (*Id.*, Ex. B.) Plaintiff is the authorized administrative agent for and assignee of the
02 Trust and seeks delinquent contributions to the Trust, as well as associated damages, attorneys'
03 fees, and costs for the period from December 2008 through February 2009. Plaintiff attaches
04 remittance reports from defendant for the month of December 2008 and a spreadsheet showing
05 the amounts of contributions owed, their due dates, and calculations of liquidated damages and
06 interest. (*Id.*, Exs. C & D.)

07 In its answer to plaintiff's complaint, defendant acknowledged that it was a party to the
08 above-described agreements, admitted that it failed to report for and pay some, but not all, of
09 the relief requested, admitted that its records contained detailed information necessary to
10 determine the extent of its unpaid allegations to plaintiff, but otherwise denied plaintiff's
11 allegations. Defendant did not oppose plaintiff's motion for summary judgment. The Court
12 deems defendant's failure to oppose to be an admission that plaintiff's motion has merit. *See*
13 Local Civil Rule 7(b)(2). The Court also, for the reasons described below, finds plaintiff
14 entitled to summary judgment.

15 Summary judgment is appropriate when "the pleadings, depositions, answers to
16 interrogatories, and admissions on file, together with the affidavits, if any, show that there is no
17 genuine issue as to any material fact and that the moving party is entitled to a judgment as a
18 matter of law." Fed. R. Civ. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).
19 The moving party is entitled to judgment as a matter of law when the nonmoving party fails to
20 make a sufficient showing on an essential element of his case with respect to which he has the
21 burden of proof. *See Celotex*, 477 U.S. at 322-23.

22 ERISA obligates participating employers to make contributions to a multi-employer

01 trust fund in accordance with the contract and trust agreement. *See* ERISA Section 515, 29
02 U.S.C. § 1145. ERISA also provides specific mandatory remedies for delinquent
03 contributions, including, in addition to the unpaid contributions, liquidated damages, interest,
04 attorney's fees, and costs. *See* 29 U.S.C. § 1132(g)(2). As noted, defendant also signed an
05 Agreement and Declaration of Trust containing terms as to damages owed as a result of
06 delinquent contributions.

07 In this case, using the remittance reports for the month of December 2008, plaintiff
08 calculates total contributions owed in the estimated amount of \$186,998.82 for the period of
09 December 2008 through February 2009. (*See* Dkt. 8, ¶ 11 and Exs. C & D.) Plaintiff further
10 calculates that defendant is obligated to pay liquidated damages in the amount of \$37,399.76,
11 pre-judgment interest, as of March 19, 2009, in the amount of \$2,336.20, \$578.75 in attorneys'
12 fees, and \$455.10 in costs. (*Id.*, ¶ 13 and Exs. C & D; Dkt. 9, ¶¶ 2, 5 and Ex. A.)

13 The Court finds no issues of fact regarding either the enforceability of the collective
14 bargaining and trust agreements at issue in this case or plaintiff's entitlement to the total amount
15 of delinquent contributions, liquidated damages, interest, attorneys' fees, and costs sought.
16 Accordingly, the Court finds summary judgment appropriate.

17 For the reasons described above, plaintiff's motion for summary judgment is hereby
18 GRANTED and plaintiff awarded a total of \$186,998.82 in delinquent contributions for the
19 period from December 2008 through February 2009. Plaintiff is also entitled to liquidated
20 damages, interest, attorneys' fees, and costs, as outlined above. However, because plaintiff
21 calculated the amounts described above as of March 19, 2009, a revised accounting may now be
22 in order. Accordingly, plaintiff shall submit such information within **ten (10) days** of the date

01 of this Order.

02 DATED this 5th day of June, 2009.

03

04

s/ Mary Alice Theiler
United States Magistrate Judge

05

06

07

08

09

10

11

12

13

14

15

16

17

18

19

20

21

22